IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3637 OF 2005

Mr. Padmanabh Shanbhag ..Petitioner.

Versus

The State of Maharashtra & Ors. ..Respondents.

Mr.Subhash Jadhav i/by M/s.Khaitan & Jayakar for the Petitioner.
Shri V.C. Ghosalkar for Respondent No.2.

CORAM : S. A. BOBDE, J.
DATED : 04TH OCTOBER,2005.

P.C.:

1. Rule returnable forthwith. Shri Ghosalkar Advocate, waives service of rule for respondent No.2. Heard by consent.

2. The petitioner has challenged the impugned order dated 29th July, 2004 passed under section 101 of the Maharashtra Co-operative Societies Act,1960; hereinafter referred to as ‘the Act’. The learned counsel for the respondent No.2 raised a preliminary objection that the petitioner has approached this court without exhausting alternate remedy provided under section 154 of the Act.

3. The learned counsel for the petitioner states

that the petitioner has not been heard and that is apparent from un-numbered paragraph No.2 of the impugned order dated 29.07.2004 which indicates that the hearings took place on 13.04.2004, 27.04.2004, 10.05.2005, 15.06.2004, 19.07.2005 and 26.07.2004. According to the learned counsel since the notice was dated 2nd July, 1994, which was served on 3rd July 2004, obviously the matter was heard behind his back on four dates prior thereto i.e. on 13.04.2004, 27.04.2004, 10.05.2004 and 15.06.2004. There appears to be some mistake or typographical error in this regard and in any case, none requiring interference by this court since I am satisfied that the petitioner has been heard. In fact, the petitioner has himself stated in the petition that he appeared in the matter on two dates. More over he has filed reply dated 26th July, 2004. Therefore, it is clear that the order was not passed behind his back and there is substantial compliance with the principles of natural justice.

4. In this view of the matter, there is no merit in the petition which is hereby dismissed. Rule is discharged.

5. The petitioner may avail of the alternative remedy, if so advised.

DT.04.10.05 (S.A.BOBDE,J)

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